

(A) South Dakota Statutory Requirements Applicable to the Underground Storage Tank Program, 1995.

(B) South Dakota Regulatory Requirements Applicable to the Underground Storage Tank Program, 1995.

(ii) The following statutes are part of the approved state program, although not incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include: South Dakota Codified Law, Water Pollution Control, Chapter 34A–2, Sections 46 and 48, Sections 72 through 75, Chapters 34A–10 and 34A–12.

(iii) The following statutory provisions are broader in scope than the federal program, are not part of the approved program, and are not incorporated by reference herein for enforcement purposes.

(A) South Dakota statutes Annotated, Chapter 34A–2, Section 100, insofar as it applies to above ground stationary storage tanks, Section 102, insofar as it applies to installation of above ground stationary storage tanks, Section 101, insofar as it applies to corrective action for above ground stationary storage tanks.

(2) *Statement of legal authority.* (i) “Attorney General’s Statement for Final Approval”, signed by the Attorney General of South Dakota on June 17, 1992, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(ii) Letter from the Attorney General of South Dakota to EPA, June 17, 1992, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The “Demonstration of Procedures for Adequate Enforcement” submitted as part of the complete application in October 1993, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program Description.* The program description and any other material submitted as part of the original appli-

cation in June 1992, though not incorporated by reference, are referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region VIII and the South Dakota Department of Environment and Natural Resources, signed by the EPA Regional Administrator on February 23, 1995, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

[60 FR 14336, Mar. 16, 1995]

§ 282.92 [Reserved]

§ 282.93 Texas State-Administered Program.

(a) The State of Texas is approved to administer and enforce an underground storage tank program in lieu of the federal program under Subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The State’s program, as administered by the Texas Natural Resource Conservation Commission, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this Chapter. EPA approved the Texas program on March 7, 1995 and it was effective on April 17, 1995.

(b) Texas has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities under sections 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, as well as under other statutory and regulatory provisions.

(c) To retain program approval, Texas must revise its approved program to adopt new changes to the federal subtitle I program which make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If Texas obtains approval for the revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the FEDERAL REGISTER.

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(d) Texas has final approval for the following elements submitted to EPA in Texas' program application for final approval and approved by EPA on March 7, 1995. Copies may be obtained from the Underground Storage Tank Program, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, TX 78711-3087.

(1) *State statutes and regulations.* (i) The provisions cited in this paragraph are incorporated by reference as part of the underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(A) Texas Statutory Requirements Applicable to the Underground Storage Tank Program, 1995

(B) Texas Regulatory Requirements Applicable to the Underground Storage Tank Program, 1995

(ii) The following statutes and regulations are part of the approved state program, although not incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include:

(1) *Texas Water Code, Title 2, Subtitle D, Chapter 26—State Water Administration.*

§ 26.013 Research, Investigations
§ 26.014 Power to Enter Property
§ 26.015 Power to Examine Records
§ 26.016 Enforcement Proceedings
§ 26.017 Cooperation
§ 26.019 Orders
§ 26.020 Hearing Powers
§ 26.021 Delegation of Hearing Powers
§ 26.022 Notice of Hearings; Continuance
§ 26.042 Monitoring and Reporting
§ 26.121 Unauthorized Discharges Prohibited
§ 26.122 Civil Penalty
§ 26.123 Enforcement by Commission
§ 26.124 Enforcement by Others
§ 26.125 Venue and Procedure
§ 26.126 Disposition of Civil Penalties
§ 26.136 Administrative Penalty
§ 26.212 Criminal Offense
§ 26.213 Criminal Penalty
§ 26.268 Penalties
§ 26.353 Commission Orders
§ 26.354 Emergency Orders
§ 26.356 Inspections, Monitoring, and Testing

(B) The regulatory provisions include:

(1) *31 Texas Administrative Code, Chapter 334—Underground and Aboveground Storage Tanks.*

Subchapter A: General Provisions

§ 334.11 Enforcement

§ 334.14 Memorandum of Understanding between the Attorney General of Texas and the Texas Natural Resource Conservation Commission

(2) *31 Texas Administrative Code, Chapter 337—Enforcement.*

(i) Subchapter A: Enforcement Generally.

§ 337.1 Enforcement Orders

§ 337.2 Hearings on Violations

§ 337.3 Legal Proceedings

§ 337.4 Complaint File

§ 337.5 Confidentiality of Enforcement Information

§ 337.6 Force Majeure

(ii) Subchapter B: Enforcement Hearings.

§ 337.31 Purpose

§ 337.32 Remedies

§ 337.33 Definitions

§ 337.34 Substantial Noncompliance and Emergency Conditions

§ 337.35 Emergencies

§ 337.36 Preliminary Enforcement Report

§ 337.37 Notice

§ 337.38 Answer

§ 337.39 Commission Action

§ 337.40 Appeals of Administrative Penalties

(iii) Subchapter C: Water Rights Enforcement.

§ 337.51 Show-Cause Enforcement Procedures

§ 337.52 Notice

§ 337.53 Enforcement of Commission Orders

§ 337.54 Enforcement

(3) *31 Texas Administrative Code, Chapter 265—Procedures Before Public Hearing.*

§ 265.1 Initial Pleadings

§ 265.2 Executive Director Forwards Initial Pleadings to the Commission

§ 265.3 Acceptance for Filing

§ 265.4 Affidavit of Publication

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- § 265.5 Effect of Failure to Furnish Affidavit
- § 265.6 Conference Before Hearing
- § 265.7 Recordation of Conference Action
- § 265.8 Prefiled Testimony and Exhibits
- § 265.9 Written Protest
- § 265.10 Discovery
- § 265.11 Forms of Discovery
- § 265.12 Scope of Discovery
- § 265.13 Exceptions
- § 265.14 Protective Orders
- § 265.15 Duty to Supplement
- § 265.16 Discovery of Documents and Things
- § 265.17 Interrogatories to Parties
- § 265.18 Admission of Facts and Genuineness of Document
- § 265.19 Requests for Requests for Information
- § 265.20 Sanctions for Failure to Comply with Discovery Ruling

(4) 31 Texas Administrative Code, Chapter 267—Procedures During Public Hearing.

- § 267.1 Designation of Parties
- § 267.2 Statutory Parties
- § 267.3 Rights of Parties at the Hearing
- § 267.4 Persons Not Parties
- § 267.5 Effect of Postponement
- § 267.6 Furnishing Copies of Pleadings
- § 267.7 Conference During Hearing
- § 267.8 Recordation of Hearing Conference Action
- § 267.9 Agreements to be in Writing
- § 267.10 Rulings in Commission Evidentiary Hearings
- § 267.11 Order of Presentation
- § 267.12 Alignment of Participants
- § 267.13 General Admissibility of Evidence
- § 267.14 Objections
- § 267.15 Interlocutory Appeals
- § 267.16 Cross-Examination of Witnesses
- § 267.17 Stipulation
- § 267.18 Exhibits
- § 267.19 Copies of Exhibits
- § 267.20 Abstracts of Documents
- § 267.21 Excluding Exhibits
- § 267.22 Official Notice
- § 267.23 Parties to be Informed of Material Officially Noticed
- § 267.24 Continuance
- § 267.25 Oral Argument
- § 267.26 Submittal of Findings of Fact and Conclusions of Law

(5) 31 Texas Administrative Code, Chapter 273—Procedures After Final Decision.

- § 273.1 Motion for Rehearing
- § 273.2 Reply to Motion for Rehearing
- § 273.3 Granting of Motion for Rehearing
- § 273.4 Modification of Time Limits
- § 273.5 Decision Final and Appealable
- § 273.6 Appeal
- § 273.7 The Record
- § 273.8 Costs of Record on Appeal

(iii) The following statutory and regulatory provisions are broader in scope than the federal program, are not part of the approved program, and are not incorporated by reference herein for enforcement purposes.

(A) Texas Water Code, Title 2, Subtitle D, Chapter 26—State Water Administration.

(I) Subchapter I: Underground and Aboveground Storage Tanks.

- § 26.341 Purpose (Insofar as it applies to aboveground storage tanks.)
- § 26.342 Definitions (Insofar as (10) and (12) apply to aboveground storage tanks.)
- § 26.344 Exemptions (Insofar as (a), (d), and (f) apply to aboveground storage tanks.)
- § 26.3441 Aboveground Storage Tanks (Insofar as it applies to aboveground storage tanks.)
- § 26.345 Administrative Provisions (Insofar as (a) and (e) apply to aboveground storage tanks.)
- § 26.346 Registration Requirements (Insofar as (a) applies to aboveground storage tanks.)
- § 26.349 Reporting of Releases and Corrective Action (Insofar as (a) applies to aboveground storage tanks.)
- § 26.351 Corrective Action (Insofar as it applies to aboveground storage tanks.)
- § 26.3511 Corrective Action by the Commission (Insofar as it applies to aboveground storage tanks.)
- § 26.3514 Limits on Liability of Lender (Insofar as it applies to aboveground storage tanks.)
- § 26.3515 Limits on Liability of Corporate Fiduciary (Insofar as it applies to aboveground storage tanks.)

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§26.355 Recovery of Costs (Insofar as it applies to aboveground storage tanks.)

§26.358 Storage Tank Fund; Fees (Insofar as it applies to aboveground storage tanks.)

(B) 31 Texas Administrative Code, Chapter 334—Underground and Aboveground Storage Tanks.

(1) Subchapter A: General Provisions.

(i) Insofar as §334.1(a)(1), (c), and (d)(2) apply to aboveground storage tanks.

(ii) Insofar as §334.3(b) applies release reporting and corrective action requirements to certain hydraulic lift tanks that are exempt under the federal program.

(iii) Insofar as §334.4 does not exclude airport hydrant fuel distribution systems and UST systems with field-constructed tanks; excludes only *sumps* less than 110 gallons, as opposed to all tanks; and does not provide a release detection deferral for UST systems that store fuel solely for use by emergency power generators.

(iv) Insofar as §334.4 subjects wastewater treatment tank systems that are deferred in the federal rules to the registration, general operating requirements, and corrective action requirements.

(v) Insofar as §334.4 requires USTs that store radioactive substances or are part of a nuclear power plant to comply with registration and general operating requirements.

(vi) Insofar as §334.4 applies release reporting and corrective action requirements to certain hydraulic lift tanks that are exempt under the federal program.

(2) Subchapter F: Aboveground Storage Tanks (Insofar as it applies to aboveground storage tanks)

§334.121 Purpose and Applicability

§334.122 Definitions

§334.123 Statutory Exemptions

§334.124 Commission Exclusions

§334.125 General Prohibitions and Requirements

§334.126 Installation Notification

§334.127 Registration

§334.128 Annual Facility Fees

§334.129 Release Reporting and Corrective Action

§334.130 Reporting and Recordkeeping

§334.131 Enforcement

§334.132 Other General Provisions

(3) Subchapter I: Underground Storage Tank Contractor Certification and Installer Licensing (Insofar as it applies to individuals other than UST owners and operators)

§334.401 Certificate of Registration for UST Contractor

§334.402 Application for Certificate of Registration

§334.403 Issuance of Certificate of Registration

§334.404 Renewal of Certificate of Registration

§334.405 Denial of Certificate of Registration

§334.406 Fee Assessments for Certificate of Registration

§334.407 Other Requirements

§334.408 Exception to Registration Requirements

§334.409 Revocation, Suspension or Reinstatement of Certification of Registration and License

§334.410 Notice of Hearings

§334.411 Type of Hearing

§334.412 Subchapter I Definitions

§334.413 License for Installers and On-Site Supervisors

§334.414 License for Installers and On-Site Supervisors

§334.415 License A and License B

§334.416 Requirements for Issuance of License A and License B

§334.417 Application for License A and License B

§334.418 Notification of Examination

§334.419 License A and License B Examination

§334.420 Issuance of License A or License B

§334.421 Renewal of License

§334.422 Denial of License A or License B

§334.423 Fees Assessments for License A and License B

§334.424 Other Requirements for a License A and License B

§334.425 Exceptions to License A and License B Requirements

§334.426 Revocation, Suspension, or Reinstatement of a License A and License B

§334.427 Notice of Hearings

§ 334.428 Type of Hearing

(4) Subchapter J: Registration of Corrective Action Specialists and Project Managers for Product Storage Tank Remediation Projects (Insofar as it applies to individuals other than UST owners and operators)

§ 334.451 Applicability of Subchapter J
§ 334.452 Exemptions from Subchapter J

§ 334.453 General Requirements and Prohibitions

§ 334.454 Exception for Emergency Abatement Actions

§ 334.455 Notice to Owner or Operator

§ 334.456 Application for Certificate of Registration for Corrective Action Specialist

§ 334.457 Application for Certificate of Registration for Corrective Action Project Manager

§ 334.458 Review and Issuance of Certificates of Registration

§ 334.459 Continuing Education Requirements for Corrective Action Project Managers

§ 334.460 Renewal of Certificate of Registration for Corrective Action Specialist and Corrective Action Project Manager

§ 334.461 Denial of Certificate of Registration

§ 334.462 Other Requirements

§ 334.463 Grounds for Revocation or Suspension of Certificate of Registration

§ 334.465 Procedures for Revocation or Suspension of Certificate of Registration

§ 334.466 Reinstatement of a Certificate of Registration

(2) *Statement of legal authority.* (i) “Attorney General’s Statement for Final Approval”, signed by the Attorney General of Texas on January 11, 1994, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(ii) Letter from the Attorney General of Texas to EPA, January 11, 1994, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The “Demonstration of Procedures for Adequate Enforcement” submitted as part of the original application on April 28, 1994, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program Description.* The program description and any other material submitted as part of the original application on April 28, 1994, though not incorporated by reference, are referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 6 and the Texas Natural Resource Conservation Commission, signed by the EPA Regional Administrator on January 13, 1995, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

[61 FR 1224, Jan. 18, 1996]

§ 282.94 Utah State-Administered Program.

(a) The State of Utah is approved to administer and enforce an underground storage tank program in lieu of the federal program under Subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The State’s program, as administered by the Utah Department of Environmental Quality, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this Chapter. EPA approved the Utah program on March 8, 1995 and it was effective on April 7, 1995.

(b) Utah has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities under sections 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, as well as under other statutory and regulatory provisions.

(c) To retain program approval, Utah must revise its approved program to adopt new changes to the federal subtitle I program which make it more